HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 3158 OF 2007

DATE: 16.04.2007

BETWEEN

1. Lanka Appala Swamy S/o Appa Rao aged about 64 years,

....Petitioner

AND

1. The Sub Registrar, Registration and Stamps Department, Subbavavaram, Visakhapatnam District

.... Respondent

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HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 3158 OF 2007

ORAL ORDER:

The petitioner is an Ex-Serviceman. He was assigned an extent of Ac. 4.45 cents of Agricultural land in S.No. 75/4 of Pedamushidivada Village, Paravada Mandal, Visakhapatnam District, by the competent authority vide proceedings dated 30.7.1992. The petitioner states that on account of his old age, he is unable to maintain the property and that he intends to sell the same. He complains that the Sub-Registrar, Visakhapatnam District, is refusing to entertain the deed for registration on the ground that the land is notified as an assigned one and that he is requiring the petitioner to obtain 'no objection certificate' from the District Collector. He challenges the action of the respondent.

The respondent filed counter affidavit stating inter alia, that in view of the prohibition contained in Section 5 of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977, it became imperative for him to insist for 'no objection certificate' from the District Collector. The plea of the petitioner that he is entitled to sell the property on expiry of 10 years from the date of assignment as per G.O.Ms.No. 1117 dated 11.11.1993 is not seriously contested.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Revenue.

It is not in dispute that the land referred to above was

assigned to the petitioner in his capacity as an Ex-Serviceman. Though a general prohibition against alienation of assigned lands, the Government had maintained the distinction, as regards the lands assigned in favour of Ex-Servicemen. After taking into account the various aspects that are involved in the matter, the Government issued orders in G.O.Ms.No. 1117 dated 11.11.1993 permitting the alienation of the lands assigned to Ex-Serviceman, after expiry of 10 years from the date of the assignment. It is in this context that the Mandal Revenue Officer and the Revenue Divisional Officer of the concerned areas, have certified that the petitioner is entitled to alienate the land assigned to him, in terms of the G.O referred to above. Such a certification though not necessary, is more than sufficient to clear the doubt entertained by the respondent. When the case of the petitioner is clearly covered by a specific G.O.Ms.No. 1117 dated 11.11.1993, issued by the Government, the respondent cannot still insist on 'no objection certificate' from the District Collector.

For the foregoing, the Writ Petition is allowed and the respondent is directed to receive the documents that may be presented by the petitioner and consider the same for admitting them to registration, without applying any prohibition on the ground that it is an assigned land.

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L. NARASIMHA REDDY, J

Date: 16.04.2007
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